IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 117 of 2000.

Date of Decision: 16-6-2007.

State of Himachal Pradesh. Appellant.

Versus

Shri Dharam Singh. Respondent

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]?

For the Appellant: **Mr. J.K. Verma, Addl. Advocate General.**
For the respondent: **Mr. Rajesh Raghuvanshi, Advocate.**

Surinder Singh, J (oral)

Dharam Singh respondent faced trial in a case under Section 279, 337 and 304-A of the Indian Penal Code before the Additional Chief Judicial Magistrate, Nahan District Sirmaur in Criminal case No. 24/2 of 1999. On merits, learned trial Court, acquitted the respondent by giving him the benefit of doubt while rejecting the case of the prosecution holding that there was nothing to connect the respondent-accused with the commission of crime.

The factual matrix of the case is that on 8-2-1999, around 9.30 P.M, PW2 Shri Som Pal was attracted by the sound of falling down of a vehicle. He along with Pal Singh went to the spot. They saw that a truck bearing registration No. HPN-498 had gone off the road at a distance of 100 yards down and stopped there with support of a tree. One person was lying dead near the truck at a distance of 10 yards. The respondent was the Driver of the Truck who also sustained injuries. The matter was reported to the Police. On investigation they concluded that the truck

[1] Whether reporters of the Local papers are allowed to see the judgment?

met with an accident on account of rash and negligent driving of the respondent. Hence, a case was presented in the Court against him for trial. A notice of accusation was put to the respondent-accused for commission of offences under Section 279, 337 read with Section 304-A of the Indian Penal Code.

The prosecution led its evidence to substantiate the charge. The main reliance was put on its star witnesses Som Pal (PW2) and Pal Singh (PW3) who had not seen the truck being actually driven rashly and negligently as alleged in the prosecution case but visited the spot of accident on hearing the sound of the accident. There is no other evidence to show that the respondent was driving the truck in a rash and negligent manner.

The respondent has given his own explanation of accident and stated that he had taken due care and caution to avert the accident while saving a cow, which suddenly appeared on the road. In my opinion, on the strength of the aforesaid evidence, learned trial Court rightly came to the conclusion that in the absence of evidence regarding rash and negligent driving by the respondent, the culpability could not be fastened upon him merely on the basis of suspicion.

Now in the present appeal against acquittal, the view already taken by the learned trial Magistrate is reasonable which a law instructed person can take.

Since I do not find any reason to interfere into the findings of acquittal arrived at by the trial Court, accordingly, while affirming the view taken by the learned trial Magistrate, the appeal is dismissed.

(Surinder Singh)
Judge.

June 16, 2007.
(bm)

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(bm)